

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

STEPHANY SWART, M.D.,

Plaintiff,

v.

SURENDRA PAWAR, M.D.,
MONONGALIA RADIOLOGY
ASSOCIATES, P.C., MARK
KRAULAND; JAMES BOLT; and
KLINE KEPPEL & KORYAK P.C.,

Defendants.

Electronically Filed: January 15, 2014

Case No.: 1:14-CV-10 (Keeley)

NOTICE OF REMOVAL

Subject to and without waiving any defense Defendant Mark Krauland ("Krauland") may raise, including, but not limited to, lack of personal jurisdiction, improper venue, and inconvenient forum, Krauland, by and through his attorneys, Bethann R. Lloyd, Esquire, Russell D. Giancola, Esquire, and Grogan Graffam, P.C., respectfully files this Notice of Removal, and states as follows:

1. On December 23, 2013, Plaintiff, Stephany Swart, M.D. ("Swart"), filed a Complaint in the Circuit Court of Monongalia County, West Virginia at Civil Action No. 13-C-992. A true and correct copy of the Complaint is attached hereto as Exhibit A.

2. Krauland was served with a copy of the Summons and Complaint on December 30, 2013.

3. Krauland seeks to remove the referenced action pursuant to 28 U.S.C. § 1441 based upon diversity jurisdiction conferred pursuant to 28 U.S.C. § 1332(a).

4. Krauland's removal of this action and the Co-Defendants' consent to same is timely pursuant to 28 U.S.C. § 1446(b)(2)(C).

5. Krauland incorporates by reference the Petition for Removal Pursuant to 28 U.S.C. § 1441, (Doc. No. 1), and all supporting exhibits filed by Surendra Pawar, M.D. and Monongalia Radiology Associates in the U.S. District Court for the Northern District of West Virginia at docket 1:13-cv-00014, as if the same were set forth at length herein. Krauland also incorporates by reference the Notice of Removal and all supporting exhibits, (Doc. No. 1); Krauland's Response in Opposition to Plaintiff's Motion to Remand, (Doc. No. 9); Krauland's Memorandum in Opposition to Plaintiff's Motion to Remand, (Doc. No. 10); Dr. Pawar and MRA's Response in Opposition to Plaintiff's Motion to Remand and all supporting exhibits, (Doc. No. 17); and Dr. Pawar and MRA's Memorandum in Opposition to Plaintiff's Motion to Remand and all supporting exhibits, (Doc. No. 11), all of which were filed in the U.S. District Court for the Northern District of West Virginia at docket 1:13-cv-00020, as if the same were set forth at length herein.

THE PARTIES

6. Upon information and belief, Plaintiff Swart is an adult individual residing at 100 Hummingbird Lane, Morgantown, West Virginia 26508, and is thus a citizen of West Virginia.

7. Defendant Surendra Pawar, M.D. is an adult individual presently residing at 4013 Old Orchard Way, Gibsonia, Pennsylvania 15044, and is thus a citizen of Pennsylvania.

8. Defendant Monongalia Radiology Associates ("MRA") is a professional corporation organized and existing under the laws of Pennsylvania, with a registered office address of 118 Pinhurst Lane, Gibsonia, Pennsylvania 15044. See Business Entity Filing History generated from the Commonwealth of Pennsylvania Department of State website, attached hereto as Exhibit B. Upon information and belief, Defendant MRA ceased doing business on December 31, 2011. Thus, at the time the Complaint was filed on December 23, 2013,

Defendant MRA had no principal place of business. Alternatively, at the time the Complaint was filed, MRA's principal place of business was 118 Pinhurst Lane, Gibsonia, Pennsylvania 15044, as receiving service of process was MRA's only remaining business activity. As such, Defendant MRA is deemed to be a citizen of Pennsylvania.

9. Defendant Krauland is an adult individual domiciled in the Commonwealth of Pennsylvania, and is thus a citizen of Pennsylvania.

10. Defendant Kline, Keppel & Koryak, P.C. ("Kline firm") is a Pennsylvania professional corporation organized and existing under the laws of Pennsylvania, with a registered office address of 1515 Market Street, Suite 1210, Philadelphia, Pennsylvania 19102. The Kline Firm's principal place of business is 425 Sixth Avenue, Suite 250, Pittsburgh, Pennsylvania 15219. As such, Defendant Kline firm is deemed to be a citizen of Pennsylvania.

11. Defendant James Bolt ("Bolt") is an adult individual domiciled in the Commonwealth of Pennsylvania, and is thus a citizen of Pennsylvania.

12. Complete diversity exists between the parties.

AMOUNT IN CONTROVERSY

13. The Complaint sets forth the following causes of action:

Count I – Fraud – All Defendants
Count II – Breach of Fiduciary Duty – All Defendants
Count III – Conversion – Pawar only
Count IV – Legal Malpractice – Krauland only
Count V – Accounting Malpractice – Kline firm and Bolt only

14. For each of the counts in the Complaint, Plaintiff seeks damages "in an amount to be determined at trial."

15. In Counts I and III, Plaintiff asserts, *inter alia*, that she has sustained monetary damages in an amount totaling \$37,330.62.

16. In the Complaint, Plaintiff also seeks damages from Defendant Pawar for misrepresentation, which allegedly resulted in Defendant Pawar receiving a higher salary than Plaintiff. In a related action previously removed to federal court, Defendant Pawar has averred that this salary disparity was \$80,000.00 per year. (See Pawar Notice of Removal, No. 13-cv-14, Doc. No. 1, ¶ 17, attached as Exhibit C).

17. Plaintiff also asserts in Count I of her Complaint that the alleged fraudulent actions of the Defendants were taken in an effort to terminate Plaintiff's 50% ownership interest in MRA. Defendant Pawar has averred that the value of Plaintiff's interest in MRA exceeded \$75,000.00. (See Ex. C ¶ 18).

18. Accordingly, Krauland reasonably believes that Plaintiff is seeking damages in excess of \$75,000.00.

REMOVAL TO FEDERAL COURT

19. Pursuant to 28 U.S.C. § 1332, the requirements of federal diversity jurisdiction have been met.

20. This Honorable Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1332 and 1441.

21. Krauland will file a copy of this Notice of Removal and all related documents with the Clerk of the Circuit Court of Monongalia County, West Virginia. Krauland has also served a copy of this Notice of Removal upon all parties, including Plaintiff's counsel.

22. All Defendants consent to the removal of this action to federal court. Copies of co-Defendants Pawar, MRA, Bolt, and Kline firm's Consent to Removal are attached hereto as Exhibits D and E.

WHEREFORE, Defendant Mark Krauland respectfully requests that this matter proceed in this Court as though originally commenced herein.

Respectfully submitted,

GROGAN GRAFFAM, P.C.

By: /s/ Russell D. Giancola
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Counsel for Defendant Mark Krauland

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Notice of Removal was served upon the following counsel of record on January 15, 2014, via CM/ECF, or, if not available, by United States mail, first-class, postage prepaid:

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